

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN POLLY

Case No. 11-13404

Plaintiff,
v.
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

Victoria A. Roberts
United States District Judge
Michael Hluchaniuk
United States Magistrate Judge

REPORT AND RECOMMENDATION
DISMISSAL FOR FAILURE TO PAY FILING FEE

This matter was referred to the undersigned for all pretrial proceedings by District Judge Victoria A. Roberts. (Dkt. 3). The Complaint was filed on August 4, 2011. (Dkt. 1). The Clerk's Office entered a Notice of Filing Fee Not Paid on August 4, 2011, advising plaintiff that either the filing fee must be paid or an application to proceed *in forma pauperis* must be filed within seven days. (Dkt. 2). A subsequent review of the file indicated that the filing fee was not paid nor was an application to proceed *in forma pauperis* filed by the deadline. On August 19, 2011, the undersigned issued an order for plaintiff to show cause in writing on or before August 26, 2011 why he has failed to either pay the filing fee or file an application to proceed *in forma pauperis*. (Dkt. 4). This deadline has long-passed and plaintiff, who is represented by counsel, has neither paid a filing fee nor filed an application to proceed *in forma pauperis*. Based on the foregoing, the

undersigned **RECOMMENDS** that plaintiff's complaint be **DISMISSED** without prejudice.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as "Objection No. 1," "Objection No. 2," etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as "Response to Objection No. 1," "Response to Objection

No. 2," etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: August 31, 2011

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on August 31, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: John S. Paterson.

s/Tammy Hallwood
Case Manager
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